

SLAVES, SLAVE OWNERS AND THE BRITISH STATE: THE CAPE COLONY 1806-1834

by

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In this paper I would like to examine some of the consequences for the Master-Slave relationship in the Cape Colony of the activities of the British State, prior to the Abolition of Slavery in 1833/4. Before the assumption of British political and military control in 1806, the Colonial social formation was largely shaped by Dutch mercantile capital and the maintenance of coercive relations of production (involving European settlers, indigenous peoples and imported East Indian and African slaves). The reincorporation of this area in 1806 into a world economic system dominated by British industrial and financial capital would seem to involve an initial collision between two antagonistic political economies. I do not wish to suggest that, here, we are dealing with two distinct modes of production (for only perhaps in the Old South did slavery develop as a distinct mode of production after 1808). But it may be illuminating to consider, within this context, what were the effects upon these local relations of production of the super-imposition of metropolitan ideologies which were generating out of the struggles between old and emergent classes, and through the agency of the developing bourgeois state in England. In the first part of this essay I will review the Slave Amelioration Acts of the 1820s and early 1830s, and show, through an examination of their language and import, their close relationship to contemporary (and later) measures adopted for the more effective containment of British working class militancy. In the latter part of the paper, I will try to indicate in what way relations between masters and slaves changed with the implementation of these Acts. There were a number of factors influencing the result, one being the ambiguous behaviour of Cape Town and other local officials who implemented the provisions. Secondly, the majority of the Orders in Council were proclaimed during a period of commercial depression in the Colony. Thirdly, following the Trinidadian Order of 1824, these various Regulations were promulgated with reference broadly pertaining to conditions in a number of colonies, mainly West Indian. In some cases they only contingently referred to circumstances in the Cape Colony.

Part 1

In analysing the process of state formation in 19th century Britain, Philip Corrigan has identified the crucial role of major state servants in articulating and effecting a response to the breakdown of the old social relations and the growth of radical working-class organizations (both in Britain and on the Continent): a response which ensured that property remained in the hands of the bourgeois and older landed classes. (1) As the educationist J. P. Kay Shuttleworth expressed it, these men saw themselves as statesmen who endeavoured

... to substitute instruction for coercion; to procure obedience to the law by intelligence rather than fear; to employ a system of encouragement in virtuous exertion, instead of the dark code of penalties against crime ... to replace the constable the soldier and the gaoler by the schoolmaster ... (2)

The emphasis in their writings, as well as in the Commission Reports and Legislative Acts, is upon "educational and moral transformation". As Corrigan ably demonstrates, they sought to show their political and economic paymasters "that the old forms of social order are attenuated, if not dissolved by new relations of production. For the old 'moral' or 'natural police' has faded into insignificance; a new regulation, a new policing is needed; the real change must be accomplished at the level of systematic socialization through schools and churches." (3) The Old Poor Law was abandoned in part because it was seen as producing "a sullen, useless, incapable and demoralized body of workers". (4) Side by side with the more obviously "economical" concerns in these Reports and Acts are the recommendations, the provisions for "moral and religious" training (that is, "education" deemed appropriate for the "humbler classes"), which would produce "the most valuable workmen, the most regular in their habits". (5)

In a complementary fashion, Catherine Hall (6) discusses the influence of the Evangelicals, in particular the Clapham Sect, in this process. She sees them as having been peculiarly suited to bridging the old and new propertied classes. Their influence expanded during the years in which they were involved in the anti-slavery campaign. In general, they focussed upon the moral and religious reconstruction of daily life. They saw the household and the family as the basis of a proper religious life and morality. Sunday was defined as a family day as well as a religious occasion. Women should be relegated to the "domestic sphere", for their fundamental role was as moral regenerators of the nation, through the agency of the family. Hall argues that "by the 1830s and 1840s, the bourgeois ideal of the family [as enunciated by the Evangelicals] had become part of the dominant culture". (7)

Corrigan observes amongst some of his state servants an expressed antipathy towards the use of corporal punishment. (8) This touches upon a matter dealt with more fully by a number of authors, including Michel Foucault in his book Discipline and Punish. (9) He isolates a period of great social transformation in Europe (including Britain) between 1760 and 1840 with respect to changes in the prevailing forms of punishment administered by the state. The Old Order had been marked by the infliction of unbearable pain upon the body of the victim through torture and public executions. It was a form of ruling-class control that was dependent upon inducing in the population a state of terror, physical fear and collective horror. Crime and punishment were related and bound up in the form of atrocity.

... It was the effect in rites of punishment, of a certain mechanism of power: of a power that not only did not hesitate to exert itself indirectly on bodies, but it was exalted and strengthened by its visible manifestations; of a power that presented rules and obligations as personal bonds, a breach of which constituted an offence and called for vengeance; of a power for which disobedience was an act of hostility, the first sign of rebellion ...; of a power that had to demonstrate not why it enforced its laws, but who were its enemies; of a power which, in the absence of continual supervision, sought a renewal of its effects in the spectacle of its individual manifestations. (10)

This is not an inapt description of the power exercised by the master over his chattel slave. In so far as there did occur a movement away from this form of control, Foucault sees it as a shift occurring at a level not unrelated to the development of "new forms of capital accumulation, new relations of production and a new legal status of property ...". (11) In its place were to come forms of control involving a routinely administered and uniformly codified series of laws and penalties, mostly entailing imprisonment and with an emphasis upon the "reform" of the "criminal". The entire process was to be seen as being independent of the power of any one individual. (12)

The various adaptations and changes which these authors discuss are evident in the framing of the Slave Amelioration Acts of the 1820s and 1830s. These British Orders in Council* seek to effect an "educational and moral transformation" of enslaved workers in the Colonies. Nevertheless, prescriptions which were intended to facilitate the reproduction of particular social relations within the British State may have borne only contradictory results in the context of the master-slave relation. I will consider this following a review of the Orders themselves.

The key legislative measures which I wish to consider are: Ordinance 19 of June 1826 (along with Governor Somerset's Proclamation of March 1823); the Order in Council of February 1830 (and the associated Proclamation of August 1830); the Order in Council of November 1831; and the supplementary Order in Council for the Cape Colony of February 1832 (and the associated Proclamation of August 1832). These measures contain several hundred different provisions. Nevertheless, taken as a whole, they appear to involve two main strategies. The first, and less ambiguous one, is the imposition of measures designed to promote the physical well-being of the slaves, and so enhancing the possibility of their physical reproduction (crucial since the closure of the slave trade in 1807/8). A second set of measures seem to point to a more complex purpose, that of reproducing a particular set of social relations, involving continued subordination of the worker, while gradually eliminating the category of "chattel slave" within bourgeois law.

Measures of obvious importance in ensuring the biological reproduction of the slave work force were those promoting the existence of a stable family unit. First, they required that marriages contracted between slaves, and between slaves and free persons, had to be recognized in law. The Order in Council of 1830 put the matter clearly:

... that no person within the said colonies ... is or shall be incapable in law of contracting marriage by reason that such person is in a state of slavery ...
(Sect. 37)

All of the Orders and Proclamations maintained this provision, with the exception of Somerset's Proclamation which had specified this as a privilege applicable only to baptized slaves. They were in agreement respecting the necessity for the master's permission prior to such a marriage. If he/she should fail to provide sufficient reason for this refusal, then the slave guardian or protector was granted the authority to permit the marriage (this is not relevant to Somerset's Proclamation). Related provisions were concerned with the sale of members of an identifiable family. The 1826 Ordinance prohibited (as did the 1823 Proclamation) the sale in separate lots, to different owners, of husbands, wives and children under the age of 10 years. The 1830 Order in Council encompassed wider possibilities by including in the prohibition the sale of any slave bearing or reputedly bearing the relation of husband, wife, parent or child to another slave separately from that slave. Any two or more slaves belonging to the same owner and bearing to each other any such relation or reputed relation could not be legally sold or disposed of separate from each other. By this stage children below 16 years were protected against sales away from any familial member.

Another set of provisions laid down the minimum acceptable standards for food, clothing and habitations provided by the master for his slaves. The 1823 Proclamation and its successor in 1826 had provided only in vague manner for this, by stating that every slave had to be supplied daily with "sufficient and wholesome food". It was the Order in Council of 1831 which set out these standards in detail. Owners

* By "Order in Council" I refer to Orders passed by the authority of the "King in Council" in London. A "Proclamation" was issued directly by the Colonial Governor, and an "Ordinance" by "Governor in Council", with the approval of the Colonial Office in London.

were given the choice of maintaining their slaves either by provision of land for cultivation by the slaves themselves or by an allowance of provisions. If the latter, then the master was bound to provide the items listed as suitable weekly rations for slaves above and below the age of 10 years (these items were revised to meet local conditions by Governor Cole in his Proclamation of September 1832). Where maintenance was to be effected by ground cultivation, then the slave owner was required to supply every slave 15 years or older with half an acre of land at no more than two miles distance from his residence, together with seeds and implements of husbandry. For the subsistence of slave children, the owner had to make available an extra one quarter acre to the reputed father, or charge another slave with the cultivation of the same. Slaves were to be permitted 40 days (6 a.m. to 6 a.m.) in a year for this cultivation. All crops reaped and gathered were to be the sole and absolute property of the slaves. Once a year the owner had to deliver a specified amount of clothing to each slave, and to each family certain cooking provisions. Furthermore, he had to supply each slave with a wooden or iron bedstead which would allow the slave to sleep at least one foot above floor level. Finally, owners possessing at least 40 slaves (12a) were required to submit to a medical inspection of their work force once every 14 days. The Order allowed for a mounting scale of fines where provisions were contravened by owners.

Finally, these Orders and Proclamations imposed restrictions upon the Owners' right to extract labour from their slaves. Apart from the ban on Sunday labour, which I shall consider below, the 1823 Proclamation and the 1826 Ordinance made it illegal for slaves to be employed in garden or field labour for more than 10 hours in each 24 hours during the winter months, or for more than 12 hours in each 24 during the summer months.* The provisions were tightened in the 1831 Order, which laid down that all slaves involved in agricultural and manufacturing labour were

to be entitled to an entire intermission and cessation of every description of work and labour from the hour of six in each evening until the hour of six in the next succeeding morning. (Sect 90)

There was, furthermore, to be a similar intermission between the hours of 8 a.m. and 9 a.m. and from noon until 2 p.m. every day of the year. No owner could compel a slave who was less than 14 years or older than 60 years, or pregnant, to perform agricultural work for more than 6 hours in any one day (6 a.m. to 6 p.m.). Similarly, no slave encompassed by this latter provision could be compelled to labour at night.

At least in theory, these provisions ought to have enhanced the physical well-being of the slaves by restricting the capacity of owners to exploit them absolutely. A marginally shorter working day, with a more adequate diet and a slight increase in personal comforts, may have encouraged the possibilities for the slaves successfully rearing children to adulthood. Crucial, of course, would be the manner in which these regulations were implemented. The interests or objectives of the local officials, who were supposed to carry them out, were by no means identical with the interests or objectives of the people who drafted and promulgated the legislation. And it was not to be expected that the slave-owners would easily co-operate with measures which, at least in the short term, would inevitably have led to a decrease in their profits.

These measures, in particular those concerning marriage and the family unit, were linked with others which, as I have suggested above, had an import wider than the securing of tolerable physical survival. One set of these latter provisions dealt with the generation of new means for disciplining the slave labour force. These means were to be less physically violent and more actively supervised (if not completely apportioned) by the state. Particular attention was paid to the forms of disciplining

* It is interesting to compare these provisions with those of the Factory Act of 1833 (in Britain). The working day for adults in the latter case was longer (see Marx, Capital, Vol. 1, (Pelican), pp. 390-391).

female slaves. Both the 1823 Proclamation and the 1826 Ordinance declared to be illegal the infliction upon a slave of a punishment "beyond what may be considered a mild domestic correction ... with rods and other implements of domestic punishment; it [was] not to exceed 25 stripes ...", and was not to be repeated within 24 hours (Art. 18 and Sect. 12, respectively). Permission was required for putting a slave in irons, which act, if not "properly justified", would be deemed a maltreatment. The courts could order the sale of slaves who had suffered excessive cruelty at their masters' hands. The Order in Council of 1830 banned as illegal the carrying or use of whips, cats or other such instruments by persons supervising the labour of slaves in agriculture or manufacturing. Any punishment inflicted was illegal unless witnessed by a free person, or, if not available, by six adult slaves. Governor Cole's Proclamation of August 1830 set out the court procedures by which an alleged illegal punishment might be proved. The procedure largely depended upon an assessment of the injury sustained by the slave. The Order in Council of 1831 reduced to 15 the maximum number of stripes which could be legally inflicted upon a male slave. Further, the Order stated that:

... it is unlawful to punish any slave ... wantonly, that is to say, without a reasonable and adequate cause; or to inflict upon any slave a punishment more than adequate to the fault by such slave committed; or to inflict upon any slave two or more punishments for any one offence; or to resort to or employ any mode of punishing one and the same offence; or to employ any mode of punishing a slave which may be both unusual and calculated to produce greater suffering than the modes of domestic punishment usually employed in such Colony, or to use in the infliction of any punishment any instrument of greater severity than is usually employed in the Common Jail of such Colony, with the previous sanction of persons sentenced to bodily punishment in such Jail; ... (Sect. 37)

It was now necessary for an owner to wait until at least 6 hours had passed after the commission of the relevant offence before he could legally punish the slave. The punishment had to be witnessed by one free person, or 3 adult slaves.

While these provisions sought to reduce, through their restrictions and associated penalties, the possibilities for the infliction of intemperate and very cruel punishments by masters upon male slaves, it is in the regulations concerning the punishment of female that an additional purpose can be seen. Section 13 of Ordinance 19 of 1826 declared as illegal the public flogging of female slaves. The 1830 Order went further in its blanket declaration as illegal the correction or punishment of any female slave by "flogging, whipping, scourging or beating of her person" (Section 22). The same Order authorized the Colonial Governors to proclaim alternative punishments involving imprisonment, confinement in the stocks, or similar, for offences previously punished in the now prohibited manner. In his Proclamations of August 1830 and 1832, Governor Cole prescribed, for offences such as "insolence", "disobedience", "absence from work without leave", solitary confinement in prison of varying duration, with an ordinary or spare diet. A further alternative was allowed in the form of:

... the substitution of any unusual article of wearing apparel (sufficient for warmth and decency), for any article of clothing legally directed or authorised to be worn, and by the compulsory wearing of which the slave may be exposed to shame and derision, or by the addition of any badge or mark to be attached to and worn with any article of clothing for the like purpose; provided such badge or mark do not put the wearer to bodily pain or inconvenience while at work ... (Proc. 27.8.1832)

For the apparently more serious offences such as "drunkenness", "desertion", "gross indecency of behaviour", the Proclamation prescribed confinement in the stocks for varying durations with a reduced ration. Nevertheless, the stocks were not to be used as an instrument of torture, that is occasioning bodily pain to the confined. Rather, this form of punishment was intended to induce a state of humiliation and repentance

in the victim. The motivations behind these regulations are clearly enunciated in the Colonial Office Despatches, to which I shall refer below. But in themselves the regulations do indicate an intention to "reconstruct" the character of the female slave, presumed to have been degraded and brutalized by a violent system. And this moral reconstruction must have been linked with their efforts to promote a reproducing family unit.

The relevant set of values were to be supplied most explicitly by the propagation of Christianity amongst the slaves. As Governor Somerset stated in his preamble to the Proclamation of March 1823:

... it is the bounden duty of every true Christian to civilize the Lower Classes and to ameliorate their condition as far as may be consistent with the security of the state, and with a due consideration to the rights and privileges of all: and whereas it must be evident to every well-disposed and religious person, that the propagation of Christianity amongst slaves will tend beyond any other measure, to promote morality amongst them, and to improve their condition and conduct ...

The propagation of Christianity amongst them was thus to be a means to an end, that of producing a more acceptable and politically safer subordinate class of labourers. Masters who failed to have baptized the children of their Christian slaves, or who prevented them from attending Sunday Church services, were to be penalized, according to the above Proclamation, the 1826 Ordinance and the Proclamation of August 1830. The 1831 Order permitted slaves to be absent from places of residence for up to 6 hours between 5 a.m. and 7 p.m. on Sunday, for purposes of attending Church. Christian slave-owners were urged to send their slave children below the age of 10 to the free schools provided by the Proclamation of 1817. Not only would this early education remove the young children from "impeding the labour of the parents", but it would "teach them their duty to God, and their Master and to society; ... train them up in a love of honesty and truth, that so they may become good men and good servants ...".(13)

The 1823 Proclamation and subsequent legislative acts denied owners the right to extract labour from their slaves on any Sunday. This ban did not include domestic work nor "work of necessity". It was not until the 1830 Order and the associated Proclamation of August that year that we find these works of necessity defined. The list in Cole's proclamation included as necessary work: sowing, reaping, pruning, gathering, wine-making, irrigating, cattle tending and other farm work. If this looks like a long list, then at least from the point of view of the slaves the 1826 Ordinance had stipulated that such work, when performed on a Sunday, had to be paid work and paid according to certain recommended minima. But the Colonial Office was not sufficiently reassured, so further limitations were laid down in the 1831 Order in Council, by which it was ordered that:

... no description of agricultural labour, or of labour performed in the manufacture of sugar, rum, molasses, wine, indigo, coffee or cocoa, shall, within the meaning of this Order, be deemed a work of necessity, unless such labour be undertaken to prevent, or arrest, or remedy the effects of any fire, flood, hurricane, or ... other such like casualty. (Sect. 35)

One further measure used to enforce Sunday as a "Christian day of rest" involved a ban on the holding of markets for the sale of merchandise (other than food) by slaves and free persons. Police action could be used against offenders. By the authorization granted to Governors in the 1830 Order, Governor Cole proclaimed Wednesday afternoon as an alternative time during which slaves could sell merchandise, with their masters' permission. It was more than possible that this would be rarely given, since it would have involved a loss of labour time.

Perhaps in harmony with these attempts to reconstruct slave workers morally and to assimilate them more closely to the supervisory influence of the state, the

regulations also gradually reduced the distinctiveness of the category of "chattel slave" in the operations of the law. A fundamental contradiction remained, of course, for as long as they remained legally the property of others. In Article 12 of Somerset's Proclamation he declared that

... the evidence of a slave, upon oath, after baptism, may be received by the constituted authorities, or competent courts, the same as that of any other Christian ...

Ordinance 19 (1826) extended this new status of slave testimony to that of all slaves, excepting that they were not permitted to give evidence for or against their masters in civil suits. According to Section 17, priority was to be given to the statements of slaves who claimed that they had been unlawfully punished, as a consequence of which bodily marks remained. This placed the burden of (dis)proof upon the offending masters. The final statement on the matter of slave testimony came in the Order of 1831, which decreed that:

... no person shall henceforth be rejected as a witness, or ... be deemed to be incompetent to give evidence in any court of Civil or Criminal Justice, or before any Judge or Magistrate, or in any Civil or Criminal Proceeding whatsoever ... by reason that such person is in a state of slavery, but that the evidence of slaves shall in all courts and for all purposes be admissible, and be received in the said Colonies in the same manner, and subject to the same regulations as the evidence of free persons ... (Sect. 70)

A further right in law was extended to slaves by provisions which ensured their property from arbitrary seizure by owners or any other person. According to the Proclamation of 1823, if it was acquired legally (i.e. by donation, legacy, through work in extra hours with the proprietor's permission, etc.) then it was deemed to be "inherent in the slave, and in no event belongs to the proprietor". Subsequent regulations extended this basic principle, with the most elaborate statement being given in 1831. No person "in a state of slavery" was to be deemed, on account of that alone, "incompetent to purchase, acquire, possess ... alienate, devise or bequeath property of any amount or of any description whatsoever ...". All slaves were deemed competent to bring or defend any action in the Courts of Law in respect of such property, "as fully and amply to all intents and purposes as if he or she were of free condition ..." (Section 42). This last Order alone added that all slaves were deemed competent in law "to cultivate any land of which he or she may be the Proprietors, with or for the growth of any description of product ..." (Section 51). The persistent exception remained the ownership of boats, weapons and ammunition. This ban reflected the continuing reality that, at bottom, slaves were held in bondage by force.

As though gradually to dissolve the basic contradiction running through this process of state involvement in the master-slave relation, the various regulations included the means for facilitating manumissions. In particular, the slave was permitted to initiate the emancipation procedure, with the assistance of higher courts and British officials, such as the Slave Protector. While Governor Somerset had tried to reassure the Proprietors, concerning his 1823 Proclamation, that

... none of the provisions contained in the foregoing clauses do, or will affect, in any degree, the property of the proprietors in their slaves ... [and that] His Majesty's Government will continue to watch over [the slaves'] interests and their happiness so long as the slaves render themselves worthy of such attention, by a zealous and faithful performance of the duties and obedience they owe to their Proprietors ... (14),

subsequent Colonial legislation progressively expanded the rights of the Courts and of British officials to investigate, supervise and regulate every aspect of the master-slave relation. With the Order in Council of November 1831, the powers of one group of these officials, the Slave Protectors (15), had expanded to include the

... full power and authority ... to enter into and upon any Estate or Plantation, cultivated either wholly or in part by the labour of slaves, or into any Hut or House wholly inhabited by slaves, for the purpose of communicating with any slave or slaves upon any such Estate ... etc. (Section 11)

Slaves were authorized to resort to the nearest Protector or Assistant Protector for the purpose of making an application or complaint. They were not liable to punishment if they were found without passes authorizing the absence from their masters, if the latter had refused to grant them such an application. Masters (or their agents) who attempted by force, violence, or intimidation, to prevent the Slave Protector from carrying out his investigations, or the slave from legitimately resorting to the Protector, or Masters who inflicted punishment upon any slave as a consequence of legitimately resorting to the Protector, were deemed guilty of a serious misdemeanour.

Did these measures and these agents of intervention have any transforming effect upon the master-slave relation in the Cape Colony prior to Emancipation? Did the relationship become a less violent and coercive one? Did masters utilize these British agents and institutions as extensions of their own authority? Or did they take a predominantly hostile attitude towards this intervention, seeing it as undermining their authority, as encouraging a rebellious spirit amongst their labourers, and as effectively lowering their profits derived from the exploitation of their slave workers? How did the slaves themselves react? To what extent and in what ways did they use these measures, agents and institutions as means of extending existing forms of resistance against their Owners? Did they perceive local British agents as distinct from and unsympathetic towards their Owners? The answer to that would be partly dependent upon the ways in which local officials implemented Colonial Office policy. This is a subject of investigation in itself. I will explore these questions in the next part of the paper and try to come to some tentative conclusions.

Part 2

In his half-yearly Report to the Colonial Office for the months June to December of 1830, the Slave Protector, G. J. Rogers, observed that:

... the slaves themselves hearing so much discussion respecting them, believe that their Emancipation must be near at hand, and therefore pay less regard to their owners, and in short look upon them as their worst enemies, and their only impediment to their liberation, being impressed generally with the idea that the Home Government is ready to pay liberally for their freedom, but that their Proprietors refuse to accept a fair remuneration. The tie that formerly existed between the master and the slave seems thereby completely severed ... the slave does nothing for his master from affection ... The constant agitation in which the slave-holders have of late years been kept by alterations in the Law regarding slaves, and the fear that some premature Legislative Enactment would be passed in England which would deprive them either suddenly or progressively of this property, have made them very morose and certainly less kind to their slaves than formerly ... the master does little now for his slave from real regard. (16)

In a later Report, he concluded that "the slave and the master seem no longer to be of one family but diametrically opposed to each other". (17) It is, of course, of interest that the Protector observed changes in the relations between masters and slaves through the impetus of British intervention in those relations. Nevertheless, his perception, or possibly that of some of his informants, of the state of paternal grace from which these relations declined, needs some challenge. It was a commonly

used defence by Cape slave owners in the face of British meddling in their "domestic" affairs to argue that their relations with their slaves were marked by kindness and familial affection. (18) An editorial in the South African Commercial Advertiser of July 1826 considered the question, and concluded that slavery at the Cape was less oppressive than elsewhere. Yet, they continued, the reasons for this might not lie in any relative capacity to resist "the passions generated by the possession of arbitrary control over our fellow creatures". (19) Rather, it was a matter of differing circumstances. The editorialists contrasted the operation of a gang labour system, with periods of intense exertion dictated by the agricultural seasons and under the direction of overseers intent on producing profit for their absentee employers, with the situation in the Cape. They characterized the latter as being one where the demographic balance favoured the free population, where the work was less seasonally exacting, and the master resident amongst his slaves. This situation, they argued, was more conducive to the development of bonds of "esteem and affection".

Be that as it may for the Cape, their perception that the more intensely slave production was organized around production for commercial markets the more harshly was labour extracted from the slaves received confirmation in Marx, Capital, Volume 1, where he states that:

... as soon as peoples whose production still moves within the lower forms of slave-labour, the corvée etc. are drawn into a world market dominated by the capitalist mode of production, whereby the sale of their products for export develops into their principal interest, the horrors of over-work are grafted onto the barbaric horrors of slavery, serfdom etc. ... Hence the Negro labour in the southern states of the American Union preserved a moderately patriarchal character as long as production was chiefly directed to the satisfaction of immediate local requirements. But in proportion as the export of cotton became of vital interest to those states, the over-working of the Negro, and sometimes the consumption of his life in seven years of labour, became a factor in a calculated and calculating system. It was no longer a question of obtaining from him a certain quantity of useful products, but rather of the production of surplus-value itself. (20)

Production for the international cotton and sugar markets in the slave colonies of the Americas undoubtedly differed in some way from agricultural and pastoral production in the Cape Colony during the period of VOC control, and perhaps during the early decades of British control. But were the linkages with commercial markets so weak as to leave social relations entirely unaffected? Current research by Robert Ross, Nigel Worden and Suzie Newton-King suggests that this may be true only of certain periods in the economic history of the Dutch colony. (21) Ross is able to show fairly reliable indicators of expansion in wheat and wine production through the 18th century (22), while Worden's research on the later decades of the same century indicates an increased number of deaths amongst young male slaves during the 1790s, coincident with a boom in the production of wheat for export. (23) Following certain British initiatives designed to encourage the production of wine for export to England, in particular in 1813 by the lowering of import tariffs in a direction most favourable to the Cape, there was a marked expansion in production for that market. For instance, in 1812, 362,520 gallons of wine were exported from the Cape Colony. By 1822 the amount had risen to 1,097,784 gallons. (24) In the Stellenbosch district in 1814 there were 14,840,000 vines planted. The number had risen to 26,362,400 vines by 1823. For the Cape District, the comparable figures were: 1,470,878 and 2,396,442 vines planted. (25) This was not accompanied by any commensurate augmentation in the labour force. These wine estates in the Stellenbosch District employed 2,271 adult male slaves and 168 adult male "Hottentots" in 1814. The sizes of these categories of workers had only slightly increased by 1823, to 2,367 slaves and 244 "Hottentots". There was an additional 36 "Prize Negro"³⁶ adult males in this later year. For the Cape.

* African slaves found on foreign slaving vessels by the British Navy were brought to the nearest British Colony as "prize captives", and there apprenticed for 14 years.

District the increase is just as small: from 530 adult male slaves to 562; from 19 "Hottentots" to 24; with an additional 80 Prize Negro males working on these wine estates in 1823. (26) There are a number of indications that this boom in wine production, as with the production of grains in the 1790s, was accompanied by an increased death rate amongst the slave workers. One of the wealthiest of the wine farmers, Pieter Laurens Cloete, wrote to the Governor's Council in 1826 that:

... It is about ten years since I concentrated my agricultural views at Zandvliet, where I brought together about sixty or seventy slaves, almost all young, healthy, and of the best description. I experienced no particular calamities from dangerous or epidemic diseases ... and have suffered no other than the usual contingencies and accidents incidental on extensive farming; and yet during that period I have lost no less than twenty-eight slaves, young and old ... (27)

On the same occasion he showed his awareness of the importance of these slave workers in the generation of his profits from agriculture. In the language of the classical political economists, he argued against the Colonial Government placing a tax upon slaves

... for it is only consonant with the first principles of political economy, that all labouring Stock is in itself a mere dead Capital, but moreover, as applicable to slave property (by far the most valuable part of the labouring stock), a most burthensome one to the Agriculturist, entailing upon him a considerable expense for food, clothing, support to old and infirm, to infants, &c.; and it is only when this Capital can be brought into action so as to yield a surplus produce, that Agriculture can be said to pay itself and to have acquired a flourishing appearance. (28)

Even were we to discount the influence of such factors upon social relations at the Cape, we would still have to conclude with Robert Ross that violence was inherent in slavery and "force was always available to and frequently employed by the slave-owning class to impress its will on the slaves". (29) Using primarily court and magistrates' records, Ross and Nigel Worden have begun to piece together a picture of master-slave relations during the 18th century, a picture which belies the notion that Cape slavery was "mild". (30) Dutch law provided for the infliction of barbarous punishments for crimes against property and persons, and these punishments were utilized against the slaves. For a slave to raise his hand against his master invited the death sentence. For masters there were "fines only for punishing a slave to death". The sjambok was the symbol of authority. (31) The close links between official groups and, in particular, the wealthy farmers guaranteed the latter minimum government interference in their "domestic" arrangements. (32) The knowledge that fierce punishments awaited them as deserters added a brutalizing strain to the lives of runaway slaves who sheltered in the caves of Hangklip on the False Bay coast. Their own violent relations reflected the coercive practices of the wider society, from which they could not finally escape. (33) This brief summary of recent work on forms of domination and resistance in the Cape under Dutch control should, I hope, establish the inference that the British did not necessarily dismantle an existing and strongly established benign, paternalist relationship between Cape masters and slaves.

When reporting to the Colonial Office in the middle of 1833, Rogers referred to

... numerous requests of Owners that the Protector should summon before him refractory and ill-behaved slaves and by his advice and reprimand endeavour to instil a better line of conduct. (34)

He was satisfied to report that in many instances this had had the best possible effects in soothing asperities between the proprietors and their slaves and completing reconciliations extremely beneficial to both parties. However, when reporting later that year, he spoke of the "tact and patience" required of "a mediator in whom both [masters and slaves] have confidence". For

... the owners have retained all their old prejudices as to their absolute right over their slaves, and the latter their stubbornness and unwillingness to acknowledge an error, and which formerly ended in severity of punishment on the one hand, and desertion, robbery, conflagration and perhaps murder on the other. (35)

Whatever it might suggest concerning an increasing rebelliousness amongst slaves, the first report implies that proprietors had begun to utilize the Slave Protector's services as an additional means of maintaining (or of shoring up) their authority over their slaves. Perhaps they recognized him as being sympathetic to their position, and they may have come to concede to him a superior effectiveness in inducing the appropriate submissiveness in their labourers. Nevertheless, this second report presents the contrary image of the slave owners as refusing to yield any part of their authority to outside agents. This latter image conforms more closely with the bulk of the evidence which I have gathered to date.

One frequently cited reason for this hostility was that these British policies involved the owners in unnecessary costs and the loss of labour time. For proprietors used to the willingness of the Fiscaal, on request, to have their slaves flogged in the town prison, it was galling to be summoned to appear with the slave and justify the requests for punishment. J. Hurter of "Silver Wyn" in Noord Hoek commented that

... if the Resident [Magistrate] will only punish on my going to Simon's Town ... I shall be seriously inconvenienced and a considerable sufferer ... as I shall on that day be deprived of the day's labour of myself and all my people ... (36)

Proprietors complained that their runaway slaves, when apprehended by the police, claimed, in order to escape punishment, that they were illegally detained as slaves and requested investigation of their cases. Concerning the claim to freedom of his slave, Willem, Pieter Laurens Cloete angrily wrote to the Fiscal Deysen that

... such an application as Willem's would not only tend to establish a most dangerous precedent and involve every proprietor of slaves to the loss, vexation and trouble of seeing every one of his slaves deserting, justifying their desertion by a mere assertion that they may be free, and being then deprived of their services, and at the expense of their custody in prison, exclusive of their own personal attendance or correspondence on such subject. (37)

Another local notable, Sebastiaan v. Reenen, declared that the behaviour of his slave, Anthonie, who "has for many years past been in the habit of claiming his freedom", had involved van Reenen in court costs amounting to 1,000 Rix dollars (£75)*. (38)

These direct costs were coupled with the indirect costs of a more rebellious, and therefore less easily exploitable, work force. The masters found some measures particularly threatening to their sense of pre-eminence over their slaves. With respect to the testimony of slaves in the courts of law, the typically engrained, and serviceable, prejudice was expressed by Advocate J. A. Joubert when he filed a deposition in the Court of Justice for his client, Johan George Stadler. He argued that the charges of "carnal conversation" (made by the slave Steyntje against her master, Stadler)

* At the rate of one shilling and sixpence sterling for a Rix dollar.

... are only supported by the depositions of other slaves, who according to every principle of law are not deserving of credit and who moreover are very easily bribed. (39)

Hence it must have come as a violent shock to their complacency when, on the testimony of slaves alone, one Johan Willem Ludwig Gebhardt was sentenced to death for the murder of Joris of Mozambique, one of his father's slaves. (40) The Court found that Joris had died as a consequence of a vicious beating administered by Gebhardt, by the overseer David Heyder, and by the other slaves (under Gebhardt's orders) on the tenth of September 1822. The Deed of Inquest and the unanimous testimony of the slaves provided overwhelming evidence against the accused. Advocate Cloete, for Gebhardt, stressed the "laziness and obstinacy of the slave Joris" in refusing to work more rapidly in the vineyard on that day, thereby "provoking" the punishment. He also impressed upon the Judge the fact that

... the whole of the circumstances of the case rest upon depositions of slaves not sworn to* - who were under the direction of the prisoner, and who are certainly no friends of him. (41)

Nevertheless, he was found guilty and duly sentenced in the Court of Justice on the 21st of September 1822. Gebhardt subsequently petitioned Governor Somerset, reminding him that "cases of a far more aggravating nature than that of the memorialist have never been followed by such a sentence". (42) In a letter to the Secretary of State to the Colonies, Somerset justified his refusal to grant stay of execution by claiming that

... the impression made by the execution of the son of Gebhardt presented an opportunity not to be lost. I felt it and availed myself of it, to declare, in affirming as Judge in the Court of Appeals, the sentence passed by the Court below on that individual, my intention of considering the condition and treatment of the Slave Population. Had I delayed, that impression might have worn off, and I should have had to struggle with prejudices and feelings hostile to the humane object I was anxious to attain. (43)

This was perhaps an unrepeatable event, whatever the presumed effects upon the proprietors. As a consequence of the British Legal Charter of 1827, the jury system was introduced into the Cape Colony. The composition of the juries would then be an important factor in the outcome of any similar trial. (44) In his report to the Colonial Office at the end of 1832, Rogers referred to the acquittal in the case of a slave murder which had occurred in the Worcester District. The Protector had disagreed with the acquittal of the slave's owner, and he added that the Judge had tried to impress upon the Jury their duty to deliver a verdict of culpable homicide. But there was apparently amongst the latter a considerable amount of "sympathy with the accused, who was only about 23 years and of the better class".

... There is no doubt ... of the jealousy and suspicion with which the evidence of slaves against their owners' families is received, a prejudice [he considered] which only time could remove. (45)

There was, as well, a further tactic. In the Magistrate's Court of Uitenhage on the 8th of October 1830, one Wessel Moolman was indicted for punishing his slave Adonis with an unlawful instrument. Adonis was summoned to give his evidence. In response to questioning, he said that he did not know what an oath was; he did not know that

* It was not until the Proclamation of 18.3.1823 that baptized slaves could make sworn testimony. This right was extended to all slaves by Ordinance 19 of 1826.

there was a God; nor did he know that there was a future state of rewards and punishments; nor could he tell who made the sun and the earth. The magistrate would not admit him as a witness. Nevertheless, Moolman was fined £5 for having used an illegal instrument of punishment. He was convicted on the testimony of his son and that of another slave, Abraham, who, one presumes, was a little less "backward" in matters of "theology, metaphysics and natural philosophy". (46)

In 1828, Jan de Villiers was arraigned before the Supreme Court on a charge of murder. His case illustrates a number of the above points. According to the Attorney General's summary of the charge, de Villiers, the son of the proprietor of "Doorn Rivier" in Worcester, instituted an enquiry amongst the slaves as to the whereabouts of one Maandag. Receiving no information, he proceeded to flog all of the slaves, including Syme, who confessed that Maandag's hiding-place was on an island in the river. Syme led de Villiers to the river, and when he failed to point out the hideaway de Villiers had him flogged again. Syme was then dragged back to the farm, where he was locked up with another slave in a small pantry, without air, food or bedding. In the morning he was flogged again. "The boy who had suffered all this was sixty years old, was infirm and afflicted with chronic asthma." He died a few days after this treatment. (47) The Defence strategy became apparent when the first witness, Adrian, a slave of de Villiers senior, was summoned. Denyssen (48), as Counsel for the prisoner, moved that Adrian be set aside on the grounds of "the infamy of the witness". His evidence for this was two previous convictions, the one involving a sentence to a severe flogging in the town prison, the other forced him to labour for six months in chains on his master's farm. He had been convicted in the first case of the theft of a calf, and in the second case of having conspired with other "vagrants". Denyssen therefore argued that Adrian was

... incorrigible. The jurisprudence referred to declares an infamous person incompetent. Theft is infamous, plotting is infamous, and dangerous, leading to dreadful consequences, and always severely punished. (49)

Justice Menzies overruled him on the basis that the content of the second conviction was too vague. When the second slave witness, Mentor, was summoned Denyssen objected. He argued that Mentor and these other slaves were the property of de Villiers; that their testimony was "domestic", and that they were "interested in the event of the trial, in as much as they had complained of punishing". The objection was overruled by the Court in conformity with the 19th Ordinance. Denyssen then tried another tactic. He charged that Mentor "was not sufficiently instructed to understand the nature of an oath". Unfortunately for the defence counsel, Mentor answered the Court's questions satisfactorily and was thus admitted as a witness. (50) In the closing stage of the trial the Defence summoned a number of witnesses. They were primarily relatives of the accused, and neighbours, some of them local Field Cornets. They referred to the "kindness" which characterized the de Villiers family's treatment of their slaves. But they mainly expatiated upon the villainies of the slave witnesses. Mentor was described as a wicked schelm, a runaway, one who trafficked with other runaways and harboured rogues in his master's property. He was not to be believed on oath. Adrian was a "consummate rogue", a runaway, and one who, out of spite, attempted to drown himself. He was not to be believed on oath. Flux was habitually violent, drunk, incorrigible, a storyteller and, moreover, suffering from the advanced stages of VD. He was not to be believed on oath. (51) Despite the testimony of these honourable gentlemen in mitigation of the accused, the Jury brought in a verdict of "Guilty of culpable homicide". But, undoubtedly as a result of the prejudiced climate created towards the prosecution witnesses, the Jury made a strong recommendation to mercy. The Court sentenced de Villiers to a year in the Stellenbosch Gaol. (52)

One of the most uniform demonstrations of hostility on the part of the proprietors occurred as a consequence of the requirement, under the 1830 Order in Council, that they keep a "Punishment Record Book". Under this regulation, the Protector was ordered to deliver to every manager of slaves employed in agricultural and manufacturing labour a printed blank book. The relevant managers were required to take one, and to complete it with a true account of every punishment inflicted upon their slaves. They were expected to record the age and sex of the slave punished, the nature of the offence committed, the nature and extent of the punishment, the name of the person who inflicted it and/or ordered its infliction, the names of witnesses, and the number of striped

inflicted upon any male slave. Twice a year these managers were required to proceed to the nearest office of the Protector or Assistant Protectors, and there to swear an oath as to the correctness of the record. Any manager who refused the return the record, or to swear to its truth, was to be subject to the penalties provided. Not surprisingly, Rogers described the "violent animosity of the slave holders to this new law". He added that it now "seems to be a settled point that nearly the whole number will refuse to take Books and keep records". (53) In Stellenbosch, those few who attempted to conform to the law and present their records to the relevant official were stoned and jeered at by a large crowd that had gathered outside the office. The crowd also turned its animosity against the officials themselves. In September 1834, seven individuals were indicted on a charge of rioting. They were fined £10 each by the Circuit Court Judges. (54) In the first year of the law's operation only 76 proprietors, out of a total of 3,024 in the districts of the Cape and Stellenbosch, applied for and swore to the correctness of their records. (55) In the second year, only five returns were made for the whole of the colony. This number dropped to two in 1832, and to zero in 1833. (56)

Clearly the slave owners found very threatening this order to subject to official scrutiny their "domestic" arrangements. The measures perhaps symbolized most characteristically for them the meaning of the State's efforts to assume a priority in the disciplining of labour. It constituted a humiliation, as well as a direct threat to their authority over their labourers. And, since they may well have had more to conceal than their self-advertised paternalist image would have suggested, the regulation portended unlimited possibilities for litigation.

Whatever this particular incident may suggest concerning slave owners, it also revealed considerable ambiguities in the behaviour of the Slave Protector himself. Throughout the period of tumult over the record books Rogers did little towards the enforcement of the regulations. On the contrary, he frequently wrote to the Colonial Office urging that they abolish these offensive provisions. His role on this occasion highlights the loyalties, interests of and influences upon these local officials. As Corrigan observed of the workings of the 1834 Poor Law, the patchy implementation and the triple structure of central commissioners, assistant commissioners and guardians "considerably weakened the cost-benefit equations of the authors of the 1834 Report". (57) Colonial Office comments upon Rogers's bi-annual reports frequently stressed the necessity for strict and consistent implementation of their policies. (58) At times he did dutifully follow their strictures. For instance, in a letter to the Assistant Protector of Worcester in 1832, Rogers pointed out, in reference to a machine in general use amongst slave holders of that district, that

... the placing of the female in stocks is intended to arouse feelings of shame, as a deterrent against acts which would render her liable to such exposure again. But if the Worcester farmers are using instruments which inflict injury upon the persons of female slaves or give them unnecessary pain, it is not a stock but an instrument of torture and cannot be used but at the risk of the perpetrators being liable for a misdemeanour. (59)

On another occasion, he set out the principles he had adopted, by which he disproved complaints of deficiencies of food, clothing, etc., or claims of overwork or ill-treatment. (60) He expressed the opinion to Colonel Bell, the Colonial Secretary, that "it may be taken generally that three-quarters of the complaints made by slaves are either entirely false, or greatly exaggerated". (61)

A similar inconsistency can be seen in the operation of the courts with respect to litigation between masters and slaves, and between the State and either. Decisions in the lower and district courts were made in conformity with the letter of of the new laws, usually when evidence of medical certificates or other witnesses clearly told against the master in question. (62) Where there were no other witnesses, the slave had greatly diminished possibilities of successfully effecting a prosecution against his or her master. (63) Nevertheless, trials in the Court of Justice, and later in the Supreme Court, sometimes yielded results once unthinkable. The Gebhardt case was the most notorious. (64) Perhaps they occurred under the influence of local notables

such as P. J. Truter, Chief Justice and slave proprietor, who allegedly declared that "he can make no distinction between the Bondsman and the free, but must sentence according to the degree of the offence proved". (65) His long letter to Governor Somerset in March 1825, in which he sets out his reasons for the eventual abolition of slavery ("an unnatural state in Society"), is suggestive of an absorption of elements of metropolitan liberal ideology by some of the local notables. (66)

Despite the uncertain prospect of securing redress of their grievances, the slave population apparently responded visibly to the British measures. Proprietors spoke gloomily of the spirit of (mistaken) expectation alive amongst their slaves, a spirit, they argued, which led to the murder of owners and families in the Bokkeveld in 1824. (67) It became a commonplace amongst slave holders to link directly British policies with those more overt manifestations of rebellion. (68) Yet, the real impact of these policies upon the slaves themselves is perhaps measured by more subtle indicators. They point to what I can best describe as being a consciousness of having rights in law, separate from the proprietorial and arbitrary rights of their owners. The records of the Slave Protector's Office contain numerous examples of slaves seeking the Protector's intervention in situations where they perceived their masters had contravened the new regulations. They sought redress in cases where their masters prevented them from visiting their spouses, or where they sold sons away from mothers, or where they prevented long established couples from solemnizing a marriage. (69) They sought his aid in facilitating the access of their children to the Free Schools in the face of opposition of their masters. (70) They demanded clarification of their status, after learning that their comrades who had been brought to the colony on the same ship as themselves had been granted their freedom. (71) And there were the many requests for intervention against masters who had inflicted illegal punishments. Sometimes their awareness of the regulations was used more directly against their masters. Rogers reported in 1830 that

... it has already come to my attention that slaves, when desired [by masters] to attend to witness the punishment of their fellow slave, have purposely got out of the way, and some even have peremptorily refused to be present. (72)

That response is considerably distant from the behaviour of the coerced slaves of Gebhardt, who held Joris down while he was beaten to the point of death.

In this summary fashion I hope that I have been able to indicate some of the main forms of response of slaves and masters to British policies. The reactions were made within the context of deepening commercial depression in the colony. The ramifications of the collapse of the wine export market, as well as depreciation of the colonial currency, created a climate marked by insolvencies and a general panic amongst property owners. This largely coincided with the most intense period of State involvement in master-slave relations, that is from the mid-1820s through to the late 1830s. Possibly for this reason, prominent slave holders began to articulate the perception that labour could be secured more cheaply where it was ostensibly free. (73) They would have concurred with Rogers's remark as to the desirability of gradually "replacing that body [of slaves] by a more useful and less expansive class of servants ... Without abruptly interfering in or encroaching upon any of the rights of the Inhabitants in that species of property". (74) Creating that body of coercible, non-slave labourers, and securing its continuous availability, were tasks which preoccupied officials and property owners alike throughout the 1830s and 1840s. The solution was encapsulated in the Masters and Servants Act No. 15 of 1856.

Notes

- (1) Philip Corrigan, "State Formation and Moral Regulation in 19th Century Britain: Sociological Investigations", DPhil, University of Durham, 1977.
- (2) qu. in Corrigan, ibid., p. 222.
- (3) Ibid., p. 149.
- (4) J. P. Kay Shuttleworth, qu. in Corrigan, ibid., p. 207.
- (5) The Children's Employment Commission Report, qu. in Corrigan, p. 18.
- (6) Catherine Hall, "The early formation of Victorian Domestic Ideology" in Fit Work for Women, ed. Sandra Burman (Croom Helm: London, 1979), pp. 15-32.
- (7) Ibid., pp. 20-29.
- (8) Corrigan, op. cit., p. 211.
- (9) Michel Foucault, Discipline and Punish. The Birth of the Prison, 1979 edition (Peregrine Books: London), trans. A. Sheridan.
- (10) Ibid., p. 57.
- (11) Ibid., p. 86.
- (12) Ibid., pp. 9, 89, 100, 127.
- (12a) At the time of writing this paper I did not have with me my sources for the distribution of the slave labour force amongst slave holders. Nigel Worden gives a figure of 12% of proprietors of slaves in the Stellenbosch District in 1782 as owning more than 20 slaves (see his "The distribution of slaves in the Cape Colony during the 18th century", unpub. paper, 1979). The position for the 1820s would not be very different. Hence this particular measure would have affected very few Slave owners.
- (13) South African Commercial Advertiser, 30.1.1830, reporting the provision of further schools for the children of the Poor and Slave populations, under the patronage of the Governor's wife, Lady Frances Cole.
- (14) Art. 24 of Proclamation March 1823, Explanatory Proclamation dated 20.4.1825.
- (15) The office was created under the Order in Council of 2.2.1830. This same officer was previously called the Slave Guardian, under the provisions of Ordinance 19 of 1826.
- (16) The Records of the Slave Office, Cape Town (SO) 3/20a, no fol.
- (17) Ibid. Report to the Colonial Office for the period June to December 1831.
- (18) See, for instance, the pages of the South African Commercial Advertiser (SACA) of July 1826, and especially of September 1826, with respect to the Committee organized to protest the 19th Ordinance.
- (19) SACA, 11.7.1826.
- (20) Pelican edition, p. 345.
- (21) Robert Ross, "The Rise of the Cape Gentry", pp. 1-14, supra; Nigel Worden, pers. comm. regarding the growth of the grain market in the 18th century; Suzie Newton-King, "Some thoughts about the political economy of Graaff Reinet in the late 18th century", SOAS discussion paper, 16.12.1980.
- (22) Ross, p. 5, supra.
- (23) Worden, personal communication, 1980.
- (24) The Records of the Wine Taster's Office (WT), Vol. 17.
- (25) WT, 17.
- (26) Ibid.
- (27) CA, The Records of the Advice Council (AC), Vol. 6 C, Minutes of the Evidence before the Council, December 1826, p. 3.
- (28) Ibid., p. 4.
- (29) R. Ross, "Cape of Torments", unpub. book manuscript, 1980, p. 1.

- (30) Ibid.; R. Ross, "Oppression, Sexuality and Slavery at the Cape of Good Hope", Historical Reflections/Reflections Historiques 6 (1979), No. 2, pp. 421-433; N. Worden, discussion paper presented to a seminar on farm labour in the Western Cape, for the Centre for African Studies, University of Cape Town, 22.10.1980.
- (31) Ross, "Cape of Torments", p. 6 of chapter entitled "The Structure of Domination".
- (32) Ross, "The Rise of the Cape Gentry", pp. 3-4, supra.
- (33) Ross, "Cape of Torments", pp. 9-12 of chapter entitled "Hangklip". Hangklip continued as a place of refuge for runaway slaves well into the 1820s; see, for instance, the judgements in Court of Justice (CJ) 814, folios 837f, CJ 808, folios 379f.
- (34) SO 3/20a, Report to the Colonial Office for the period December 1832 until June 1833.
- (35) SO 3/20a, Report to the Colonial Office for the period June to December 1833.
- (36) PRO, CO 414/4, fo. 586, Hurter to Plaskett, 6.1.1826.
- (37) PRO, CO 414/3, fo. 43, Cloete to the Fiscal, 9.9.1823.
- (38) SO 5/1, fo. 351, dated 22.3.1828.
- (39) PRO, CO 414/2, fos. 299-300, filed in the Court of Justice on 18.6.1818. Steyntje and her six children were granted their freedom by the Court of Appeals for Civil Cases on the 4th of November 1818. Stadler promptly sued the Government for the loss of Rix dollars 35,390 (approximately £2,650), which he estimated was the market value of the slaves, plus interest and expenses (fos. 323,333). For indications of the hostility to the "obnoxious 17th Article" of the 1826 Ordinance, see SACA, 18.7.1826, and SO 3/20a, Report to the Colonial Office for June to December 1830.
- (40) CJ 816, fos. 712f; The Cape Government Gazette, 1822, Nos. 881-885.
- (41) Gazette, No. 885, 1822.
- (42) CA, CO 3923, No. 388.
- (43) CA, GH 23/7, Somerset to Earl Bathurst, 1.2.1824, p. 124.
- (44) For example, the list given in SACA 17.2.1830 for the Criminal Session beginning February 15th included eight very prominent estate and slave owners, as well as leading Cape Town merchants.
- (45) SO 3/20a, Report to the Colonial Office for June to December 1832.
- (46) To quote the editorial of SACA, 27.1.1830.
- (47) The Colonist, 22.7.1828; the case is described in SO 3/21, Case 8 fo. 56f, and in the pages of The Colonist, July through September 1828.
- (48) For Denyssen's considerable holdings in property and slaves, see House of Commons, Accounts & Papers, 22, fo. 37, based on a Despatch from Gov. Bourke to Bathurst, 2.12.1826; and the sale notice in SACA, 2.1.1830; for Denyssen's unsavoury role (when Fiscal) in the dispute over a slave woman and her child, involving the merchant Collison and the wealthy farmer J. G. V. Rheede V. Oudtshoorn, see PRO, CO 414/4, fo. 459.
- (49) The Colonist, 22.9.1828.
- (50) Ibid.
- (51) The Colonist, 2.9.1828.
- (52) SO 3/21, fo. 56.
- (53) SO 3/20a, Report to the Colonial Office for June to December 1830.
- (54) SO 3/20a, Report to the Colonial Office for December 1830 to June 1831; ibid., for June to December 1831.
- (55) SO 3/20a, Report to the Colonial Office for December 1830 to June 1831.
- (56) Ibid.; Reports to the Colonial Office for the periods December 1830 to June 1831, for June to December 1831, for December 1831 to June 1832, for June to December 1832.
- (57) Corrigan, op. cit., p. 46.

- (58) See, for instance, SO 1/6, the Colonial Office Minute, dated 11.12.1828, with observations of His Majesty's Secretary on the report of the Registrar and Guardian for the half-year ending on the 24th May 1827.
- (59) SO 2/12, fo. 247, Rogers to the Assistant Protector, Worcester, 19.4.1832.
- (60) SO 3/20a, Report to the Colonial Office for June to December 1832.
- (61) SO 2/11, fo. 490, Rogers to Col. Bell, 23.2.1830.
- (62) See, for example, PRO, CO 414/3, fo. 427f; SO 3/21, fo. 91. In both cases, the one in 1823, the latter in 1829, convictions under the provisions of the 19th Ordinance were based upon medical testimony.
- (63) Especially when it involved a notable like Michiel v. Breda. See PRO, CO 414/3, fos. 255-298, 16.7.1824.
- (64) A later one being the Jury's decision to dismiss charges of "intentional wounding" by the slave January of his master, T. F. Dreyer, a very wealthy wine farmer (SO 3/20a, Report Dec. 193).
- (65) Quoted by Rogers, who commented that this was not suited to a slave colony (SO 3/20a, Report Dec. 1831 to June 1832).
- (66) CA, CO 238, Truter to Somerset, 6.3.1825.
- (67) G. E. Cory, "A Short History of Slavery at the Cape", South African Historical Society (CA, manuscript A378d), p. 21.
- (68) *Ibid.*; Somerset's Explanatory Proclamation, dated 20.4.1825; CA, CO 138, letter to Somerset from the members of the Court of Justice; SO 3/20a, Report to the Colonial Office for June to December 1830; the statement of Advocate Berg, quoted in SACA 17.3.1824, p. 84.
- (69) See, for instance, SO 2/12, folios 188, 230, 231, 240, 283, 329; SO 5/2, fo. 193; and PRO, CO 414/3, folios 537, 538-9, for cases dealt with in 1823, 1829, 1831 and 1832.
- (70) PRO, CO 414/3, fo. 537; *ibid.*, fo. 535.
- (71) PRO, CO 414/4, fo. 307; SO 5/1, fo. 27.
- (72) SO 3/20a, Report to the Colonial Office for June to Dec. 1830.
- (73) PRO, CO 414/4, fo. 591, Notes to the Commissioners of Enquiry from D. v. Reenen, 17.7.1826.
- (74) SO 2/12, fo. 35.